

RECEIPT NUMBER

514976

13

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ORIGINAL

ROSE SAUNDER

Plaintiff,

v.

Case No.

Hon.:

04-73982

ROBERT H. CLELAND

MAGISTRATE JUDGE MORGAN

CITY OF DETROIT, KEVIN HANUS,
SCOTT SHEA, JOHN SKUBIK,
STEVE CARLIN, STEVEN CRUTCHFIELD,
RANDAL HAMPTON, MR/MS. SMITH,
RAY MOXLEY BERRY, ANTHONY ARMSTRONG,
GASHANNA MCGHEE, DANIEL MATHISON,
KIMBERELLA MCCREE, AL WILLIAMS,
BRIAN FIELDS, IRA TODD, JEVON JOHNSON,
KEITH BEASLEY, PHARABROUS WHITE,
RODNEY CLARK, and ROWLAND CLARK, in their
individual and official capacities,

Defendants.

LAW OFFICES OF CHRISTOPHER TRAINOR
BY: SHAWN J. COPPINS (P63128)
Attorney for Plaintiffs
6557 Highland Road, Suite 105
Waterford, MI 48327
(248) 886-8650

U.S. DIST. COURT CLERK
EAST DIST. MICH
DETROIT

04 OCT 12 P2:32

FILED

COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff, ROSE SAUNDER, by and through her attorney, LAW
OFFICES OF CHRISTOPHER J. TRAINOR, and in support of her Complaint against the above
named Defendants, states as follows:

1. The Plaintiff is a resident of the City of Detroit, County of Wayne, State of
Michigan.

2. The Defendant City of Detroit is a municipal corporation organized and existing under the laws of the State of Michigan.

3. The individually named defendants were, at all times material herein, employees of City of Detroit Police Department.

4. This lawsuit arises out of the individually named Defendants' actions in arresting Plaintiff without probable cause or any legal justification whatsoever and in failure to provide Plaintiff, who is hypoglycemic, with adequate medical care and treatment while she was in their custody, causing her to suffer severe injuries.

5. The amount in controversy exceeds Seventy Five Thousand (\$75,000.00) Dollars.

FACTS

6. On or about October 13, 2001, Plaintiff was present at her home located at 3258 Ewald Circle, Detroit, Michigan.

7. Plaintiff and her boyfriend had an argument and Plaintiff felt unsafe and decided it was best she leave.

8. Plaintiff went outside and sat in her boyfriend's vehicle.

9. Plaintiff's boyfriend then called the police claiming that Plaintiff had a gun and "shots were fired".

10. Defendant Detroit police officers KEVIN HANUS and SCOTT SHEA arrived and asked Plaintiff to get out of the vehicle she was sitting in.

11. The officers then searched the vehicle and found a handgun inside the passenger compartment.

12. Plaintiff was unaware that a gun was in the vehicle.

13. Plaintiff was taken into custody by the City of Detroit police officers.

14. Upon arrival at the 10th Precinct she advised the arresting officers and other of the individually named defendants that she was hypoglycemic and needed food or juice.

15. Plaintiff was brought a bologna sandwich that was covered in dirt.

16. Plaintiff was unable to eat the dirty bologna sandwich that was presented to her.

17. Plaintiff became ill and continuously requested edible food or juice.

18. Defendants continued in their failure and/or refusal to provide Plaintiff with edible food or juice.

19. Several hours after her requests, Plaintiff passed out due to low blood sugar.

20. While Plaintiff was unconscious, certain of the individually named Defendants kicked and/or otherwise struck Plaintiff while trying to revive her.

21. EMS was then contacted, and certain EMS technicians arrived to examine Plaintiff.

22. The EMS technicians did not have a sterile needle with which to administer a blood sugar level test.

23. The EMS technicians left Plaintiff in the custody of Defendants, but advised certain of the individually named Defendants that they should call again if Plaintiff continued to have complaints.

24. Despite Plaintiff's numerous complaints, the EMS technicians were not again summoned to evaluate Plaintiff's condition.

25. Plaintiff did not receive any food or drink until she was about to be released from custody on the following day.

26. Plaintiff was then released and all charges were eventually dismissed.

27. The Defendants were grossly negligent and showed a reckless disregard for the safety and well being of Plaintiff.

28. Plaintiff suffered injuries as a result of the above actions.

COUNT I
VIOLATION OF THE UNITED STATES CONSTITUTION
FOURTH AMENDMENT, 42 U.S.C. §1983
WARRANTLESS SEARCH AND SEIZURE WITHOUT PROBABLE CAUSE

29. Plaintiff realleges and incorporates by reference all allegations of this Complaint as though fully set forth herein.

30. The Fourth Amendment of the United States Constitution establishes that Plaintiff has the right to be free from deprivation of life, liberty and bodily security without due process of law and to be free from unreasonable searches and seizures without oath or affirmation.

31. The Fourth Amendment requires that the deprivation of life, liberty and bodily security be caused by a state actor; that the deprivation is unreasonable if the state acts without a warrant, unless there is probable cause or exigent circumstances considering the totality of the circumstances.

32. At all material times, the individually named Defendants acted under color of law and unreasonably when they violated Plaintiff's Fourth Amendment rights when they arrested Plaintiff and seized her without a warrant, and without probable cause or exigent circumstances.

33. Defendants acted unreasonably and failed in their duty to investigate the alleged crime when they arrested Plaintiff without considering the totality of the circumstances.

34. Defendants acted under color of law and violated Plaintiff's clearly established Fourth Amendment right to be free from unreasonable searches and seizures when they conducted a warrantless search and arrested Plaintiff.

35. A reasonable officer would have known that a warrant or probable cause was required before they could arrest Plaintiff and seize her.

36. Defendants are not entitled to qualified immunity as state actors, and can be sued in their individual capacity for violation of Plaintiff's clearly established Fourth Amendment Constitutional right to be free from unreasonable searches and seizures.

37. Defendants' illegal acts were the direct and proximate cause of Plaintiff's deprivation of liberty, and illegal imprisonment.

38. The facts as set forth in the preceding paragraphs constitute a violation of Plaintiff's Fourth Amendment rights and pursuant to 42 U.S.C. §1983, Plaintiff respectfully requests this court to award exemplary, compensatory, and punitive damages, plus costs, interests, and attorney fees as set forth in 42 U.S.C. § 1988.

COUNT II

ADDITIONAL CONSTITUTIONAL VIOLATIONS

39. Plaintiff realleges and incorporates by reference all paragraphs in this Complaint as though fully set forth herein.

40. The individual Defendants were at all relevant times acting under color of law.

41. As a result of the conduct complained of herein, Plaintiff suffered deprivation of clearly established rights protected and secured by the constitution and by other laws, including, but not limited to:

- a. A right to be free from deprivation of liberty and bodily security and integrity without due process of law;
- b. A right to be free from unreasonable searches and seizures.

42. Defendants acted at all times with a reckless disregard for and/or deliberate indifference to Plaintiff's rights under the Fourth, Fifth and Fourteenth Amendments of the United States Constitution.

43. As a result of Defendants' violation/deprivation of Plaintiff's constitutional rights, Plaintiff has a viable claim for compensatory and punitive damages pursuant to 42 U.S.C. § 1983 and costs, interest and attorney fees pursuant to 42 U.S.C. § 1988.

**COUNT III
CONSTITUTIONAL VIOLATIONS
BY CITY OF DETROIT**

44. Plaintiff realleges and incorporates by reference all paragraphs in this Complaint as though fully set forth herein.

45. Acting recklessly and/or with deliberate indifference, Defendant, CITY OF DETROIT, practiced and/or permitted customs and/or policies, which resulted in the violations of Plaintiff's constitutional rights complained of herein.

46. These customs and/or policies included, but were not limited to:

- a. Failure to train its officers in the proper policies and procedures for obtaining a warrant;
- b. Failure to train its officers how to determine whether there is probable cause for arrest.
- c. Failure to train its police officers in the proper policies and procedures for providing medical treatment for persons in its custody;

- d. Failing to supervise its police officers to insure that they are acting in the best interest of those in its custody so as to prevent unnecessary injuries as a result of improper attention to illnesses known of at the time of arrest;
- e. Failure to teach officers constitutional and statutory law as it pertains to their work as officers;
- f. Failing to train in intervening, stopping, preventing violations of person's constitutional rights;
- g. Failing to supervise its officers so as to prevent the violation of its citizens' constitutional rights; and
- h. Failing to supervise, review and/or discipline officers whom the CITY OF DETROIT knew or should have known were violating or were prone to violate citizens' constitutional rights, thereby permitting and/or encouraging its officers to engage in such conduct.

47. That Defendants' actions in denying Plaintiff medical treatment with knowledge that she was hypoglycemic, was intentional and reckless and/or grossly negligent in depriving Plaintiff the constitutional rights afforded her by the fourth and/or fourteenth Amendment.

48. The deprivation of those rights is in contravention of the United States Constitution.

49. As a direct and proximate result of the Defendants' actions and/or omissions, Plaintiff suffered all those damages and injuries described herein. Plaintiff has a viable

claim for compensatory and punitive damages pursuant to 42 U.S.C. § 1983 and costs, interest and attorney fees pursuant to 42 U.S.C. § 1988.

50. That as a direct and proximate cause of Defendants' actions, Plaintiff has suffered and continues to suffer the damages specified in the aforementioned paragraphs.

DAMAGES AND RELIEF REQUESTED

51. Plaintiff realleges and incorporates by reference all paragraphs in this Complaint as if fully set forth herein.

52. As a direct and proximate result of the aforementioned deprivation of constitutional rights and breaches of statutory and common law duty by Defendants, Plaintiff was threatened, harassed, arrested, imprisoned, suffered loss of property and liberty, resulting in severe injuries including but not limited to physical pain and suffering; mental anguish; fright and shock; emotional, physical and psychological trauma; and embarrassment and humiliation.

53. As a direct and proximate result of Defendants' unlawful acts, Plaintiff has sustained hospital, medical and therapeutic expenses and will continue to incur such expenses into the foreseeable future.

54. As a direct and proximate result of Defendants' unlawful acts, Plaintiff has sustained loss of property and loss of earnings.


55. As a direct and proximate result of Defendants' unlawful acts, Plaintiff has been deprived of enjoyment of life and will continue to suffer trauma into the foreseeable future.

WHEREFORE, Plaintiff demands judgment against the Defendants in an amount that is fair, just, reasonable, and in excess of Seventy-Five Thousand Dollars (\$75,000.00) as follows:

- a. Awarding Plaintiff compensatory damages for actual injury, emotional distress and/or medical trauma, embarrassment and humiliation, loss of self-worth and self-esteem, loss of quality and enjoyment of life, loss of property, and loss of earnings;
- b. Awarding Plaintiff reasonable costs and expenses of this action, including attorney fees set forth in 42 U.S.C. § 1988.
- c. Awarding punitive damages to punish and deter past, present, and future conduct.
- d. Granting Plaintiff such other and further relief as may be deemed just.

Respectfully Submitted,

LAW OFFICE OF McCALL & TRAINOR

By: 
CHRISTOPHER J. TRAINOR (P42449)
SHAWN J. COPPINS (P63128)
Attorney for Plaintiff
6557 Highland Road, Suite 105
Waterford, MI 48327
(248) 886-8650

DATED: October 12, 2004

DEMAND FOR TRIAL BY JURY

NOW COMES Plaintiff ROSE SAUNDER, by and through her attorneys, LAW OFFICE OF McCALL & TRAINOR, and hereby makes a Demand for Trial by Jury in the above-entitled cause.

Respectfully Submitted,

LAW OFFICE OF McCALL & TRAINOR

By: 

CHRISTOPHER J. TRAINOR (P42449)-

SHAWN J. COPPINS (P63128)

Attorney for Plaintiff

6557 Highland Road, Suite 105

Waterford, MI 48327

(248) 886-8650

DATED: October 12, 2004

04-73982

ORIGINAL

JS 44 11/99

CIVIL COVER SHEET COUNTY IN WHICH THIS ACTION AROSE: _____

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS

ROSE SAUNDER

DEFENDANTS

CITY OF DETROIT,
ET AL
ROBERT H. CLELAND

(b) County of Residence of First Listed _____

County of Residence of First Listed _____

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

LAW OFFICES OF MC CALL & TRINOR
6557 HIGHLAND, WATERFORD, MI
248 886-8650

Attorneys (If Known)

CHRISTOPHER J. TRINOR (PH 2449)
SHAWN COPPIN (PH 3128)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item 11)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | | | |
|---|----------------------------|---|----------------------------|
| PLA | DEF | PLA | DEF |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of This State | | Incorporated or Principal Place of Business in This State | |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen of Another | | Incorporated and Principal of Business in Another State | |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
| Citizen or Subject of a Foreign Country | | Foreign Nation | |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--|--|--|---|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment and Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel And Slander <input type="checkbox"/> 330 Federal Employees' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-Med. Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21:881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395if) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Com mod ties/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights | PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition | | |

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 (specify) _____
- ☐ 6 Multi district Litigation
- ☐ 7 Judge from District
- ☐ 8 Judge from Magistrate

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

\$DEMAND _____

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See

instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

10/12/04 SHAWN COPPIN

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes
☐ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
